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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,252	02/27/2002	Tadayashi Kawaguchi	500.41295X00	2571
20457	7590	07/16/2004		
ANTONELLI, TERRY, STOUT & KRAUS, LLP 1300 NORTH SEVENTEENTH STREET SUITE 1800 ARLINGTON, VA 22209-9889			EXAMINER HASSANZADEH, PARVIZ	
			ART UNIT	PAPER NUMBER
			1763	

DATE MAILED: 07/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/083,252

Applicant(s)

KAWAGUCHI ET AL.

Examiner

Parviz Hassanzadeh

Art Unit

1763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8 and 9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8 and 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group II, apparatus claims 8-9, in Paper No. 10/21/03 is acknowledged.

It is also noted that the non-elected claims 1-7 are cancelled in the Paper No. 10/21/03.

Drawings

The drawings were received on 6/9/04. These drawings are acceptable by the Examiner.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Doi et al (JP 2000-323298-A) in view of Demos et al (US Patent Application Publication No. 2001/0008138-A1).

Doi et al teach an apparatus (Fig. 9) for plasma processing which has a vacuum vessel forming a plasma producing part 2a, a gas supplying source (means) 4 for supplying a gas to the

Art Unit: 1763

vacuum vessel, an antenna 1a, 1b generating an electric field in the plasma producing part, a Faraday shield 8a provided at outer periphery of the vacuum vessel, a high-frequency electric source 10 supplying a high-frequency electric power to the antenna and the Faraday shield. The apparatus of Doi et al includes gas source containing boron trichloride and chlorine in etching aluminum and quartz (paragraph 0066) and the voltage applied to the Faraday shield can be adjusted up to 1000 V (paragraph 0047).

Doi et al fail to teach an end point determination and detection device wherein the device detecting the end point of cleaning of the inner wall of the vacuum vessel by detecting emission wavelength of reaction products or a material of the vacuum vessel.

Demos et al teach a plasma processing apparatus including an optical emission detection device for monitoring and detecting an end of the cleaning process of the inner wall of the process chamber (abstract). The end point for plasma cleaning may be determined by optical emission technique wherein the emission from SiF line may be monitored at a predetermined wavelength during removing SiO₂ from the interior chamber surface (paragraph 0032).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to implement the detection system as taught by Demos et al in the apparatus of Doi et al in order to monitor and detect the end of cleaning of the interior surface of the chamber.

Further regarding claim 9: the plasma producing part 2a is made of a dielectric material such as silica or alumina. It is noted that when interior surface of the chamber is exposed to the chlorine and boron trichloride, SiCl or AlCl would be produced and an emission wavelength of a material of the chamber could be monitored. Furthermore, it is argued that apparatus of Doi et al in view of Demos et al is capable of detecting emission wavelength of a material of the vacuum vessel

Art Unit: 1763

such SiCl or AlCl. It has been held that claims directed to apparatus must be distinguished from the prior art in terms of structure rather than function. *In re Danley*, 120 USPQ 528, 531, (CCPQ 1959); “Apparatus claims cover what a device is, not what a device does” (Emphasis in original) *Hewlett-Packard Co. V. Bausch & Lomb Inc.*, 15USPQ2d 1525, 1528 (Fed. Cir. 1990); and a claim containing a “recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus” if the prior art apparatus teaches all the structural limitations of the claim *Ex parte Masham*, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987). Also see MPEP 2114.

Response to Arguments

Applicant's arguments filed 6/9/04 have been fully considered but they are not persuasive. Applicants assert that the claimed apparatus includes detecting emission wavelength of reaction products generated when the cleaning gas is boron trichloride and chlorine and the voltage applied to the Faraday shield is at least 500 V.

The Examiner argues that the apparatus of Doi et al includes gas source containing boron trichloride and chlorine in etching aluminum and quartz (paragraph 0066) and the voltage applied to the Faraday shield can be adjusted up to 1000 V (paragraph 0047). Further, the type of the gas and the amount of voltage applied to the Faraday shield are considered process limitations rather than apparatus structural limitation and the apparatus of Doi et al in view of Demos et al is capable of being utilized under the process conditions as recited in the claims.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so

Art Unit: 1763

long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation for combining the optical detection device of Demos et al in the plasma etching apparatus of Doi et al is to monitor the end point of cleaning the plasma processing apparatus of Doi et al.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Collins et al (US Patent No. 6,054,013), Blalock (US Patent No. 5,647,913) and Schneider et al (US Patent No. 6,308,654 B1) teach a plasma chamber including antenna coil and Faraday shield coupled to power source; and

Pirkle et al (US Patent No. 5,846,373) and Tsukazaki et al (US Patent No. 5,837,094) teach a plasma chamber including an optical detecting system for monitoring end point of chamber cleaning process.

Art Unit: 1763

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Parviz Hassanzadeh whose telephone number is (571)272-1435. The examiner can normally be reached on Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Mills can be reached on (571)272-1439. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1763

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

P. Hassanzadeh
Parviz Hassanzadeh
Primary Examiner
Art Unit 1763

July 13, 2004